

State of California  
BOARD OF EQUALIZATION  
USE FUEL TAX REGULATIONS

**Regulation 1323. PASSENGER CARRIERS — TRANSIT PARTIAL EXEMPTION.**

*Reference:* Section 8655, Revenue and Taxation Code.

**(a) DEFINITIONS.** Except where the context otherwise requires, the following definitions govern the construction of this regulation:

(1) "Transit service" means and is limited to:

**(A)** The common carriage of passengers by motor vehicle for compensation on an individual fare basis between fixed termini or over a regular route on any line or lines in urban and suburban areas or between cities in close proximity, or on any line or lines owned and operated by a transit district, transit authority, or city.

**(B)** The carriage of passengers by motor vehicle by a transit district, transit authority, or city, in conformance with a demand-responsive transportation service.

**(C)** The carriage of persons by motor vehicle by any private entity providing transportation services as a transit operator as defined in subdivision (a) (2) (B) or (a) (2) (F) of this regulation.

(2) "Transit operator" includes the following:

**(A)** Any transit district, transit authority, or city, owning and operating a transit system and engaging in transit services itself or through a wholly-owned nonprofit corporation.

**(B)** Any private entity providing transportation service under a contract or agreement, other than a general franchise agreement, entered into after September 26, 1978, with a public agency authorized to provide public transportation services. The provisions of subdivision (b) of this regulation shall apply only with respect to fuels consumed by that private entity while providing service under such contract or agreement.

**(C)** Any passenger stage corporation as defined in Section 226 of the Public Utilities Code, engaging in local transit service subject to the jurisdiction of the Public Utilities Commission, when the motor vehicles of such passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity for the transportation of persons for hire, compensation, or profit; provided, however, that the exemption is not extended to any line or lines operated by such passenger stage corporation which shall exceed 50 miles of one-way route mileage. As defined in Section 226 of the Public Utilities Code, "passenger stage corporation" includes every person engaged as a common carrier for compensation, in the ownership, control, operation or management of a passenger stage over any public highway in this state between fixed termini or over a regular route except:

1. those whose operations are 98 percent or more exclusively within the limits of a city; or
2. those whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institutions; or
3. that part of the passenger stage operations of any person, whether between fixed termini or over a regular route or otherwise, engaged in the transportation of any pupils or students to or from a public or private school, college or university, or to or from activities of a public or private school, college or university, where the rate, charge or fare for such transportation is not computed, collected or demanded on an individual fare basis.

**(D)** Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent or more of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

**(E)** Any school district, community college district, or county superintendent of schools owning, leasing, or operating busses for the purpose of transporting pupils to and from school and for other school or college activities involving pupils, including, but not limited to, field trips and athletic contests.

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(F) Any private entity providing transportation services for the purposes specified in (a)(2)(E) under contract or agreement entered into after October 1, 1984, with a school district, community college district, or county superintendent of schools. The provisions of subdivision (b) of this regulation shall apply only with respect to fuels consumed by that private entity while providing service under such contract or agreement.

(3) "City" includes and is limited to a chartered city, or a general law city, incorporated or organized under laws of this state.

(4) "Urban area" means any area which lies within a city, or within an unincorporated residential, commercial, or industrial area, and which does not fall within the definition of a suburban area as herein defined.

(5) "Suburban area" means any unincorporated residential, commercial, or industrial area contiguous to, adjacent to, or adjoining a city.

(6) "Close proximity" as applied to cities means that they, or their suburban areas, are contiguous to, adjacent to, in the immediate vicinity of, or adjoining each other. It is unnecessary that the city boundaries or their suburban areas touch in order for the cities to be in close proximity.

(7) "Public agency" includes any transit district, transit authority, county, city, city and county, this state and any agency of this state.

**(b) APPLICATION OF TAX.** A transit operator is exempt from use fuel tax with respect to fuels used for the propulsion of motor vehicles when operated in transit service. The operator must pay one cent for each gallon of such exempt fuel used. These payments shall be treated as a tax imposed under the use fuel tax law. The full rate of tax applies to the use of such fuels for the propulsion of motor vehicles in operations other than in transit service. The exemption does not apply to fuel used by a passenger stage corporation in passenger stage operations over any line or lines:

(1) The one-way mileage of which exceeds fifty miles, or

(2) The one-way mileage of which is less than fifty miles, if the operations are not exclusively within urban or suburban areas or between cities in close proximity.

**(c) RECORDS.** A transit operator claiming the partial exemption from the use fuel tax under (a)(2)(B) or (a)(2)(F) above, must retain all relevant contracts and other documentary evidence to support the claimed exemption. The operator shall maintain records of fuel consumed in contract operations. If the same vehicles are used for charter or any other purpose when not required for contract runs, the operator shall maintain records sufficiently detailed to support the exempt portion of the fuel consumed. For example, if the operator computes the exemption based upon mileage driven, the operator shall maintain records of each trip, total mileage, and the mileage the vehicle is operated while providing services under such contracts or agreements.

If an overpayment of use fuel tax is expected to occur consistently, a transit operator may apply for authorization from the Board to purchase fuel without payment of tax to vendors as specified in Regulation 1319.

*History:* Adopted October 10, 1968.

Amended December 6, 1968, effective January 8, 1969.

Amended July 8, 1971, effective July 20, 1971.

Amended December 12, 1973, effective January 18, 1974.

Amended June 28, 1977, effective August 21, 1977. Section (a) (1) amended to include any lines operated by a local governmental authority.

Effective without limitation as to retroactive effect.

Amended November 15, 1979, effective January 5, 1980. Implements amendments to Revenue and Taxation Code Section 8655 made by Chapter 1140 Statutes 1978 which extends the partial exemption from use fuel tax to private entities providing transportation services under contracts with certain public agencies.

Amended October 7, 1987, effective December 23, 1987. In subdivision (a) (1) (C), excluded from definition of "Transit Service" charter-party passenger carrier service. Also deleted definition of charter-party passenger carrier service. Added subdivision (a) (2) (E) to include certain school entities that are exempted from tax by the Legislature. Added subdivision (a) (2) (F) which exempts from tax certain private entities providing transportation services to school entities as defined in subdivision (a) (2) (E).

Amended December 9, 1998, effective May 20, 1999. Deleted "city and county, or county" after "city" in subdivisions (a)(1)(A), (a)(1)(B), (a)(2)(A), (a)(2)(C)1. and (a)(3). Moved definition of "public agency" from subdivision (a)(2)(B) to new subdivision (a)(7). Deleted "diesel or liquefied petroleum gas" after "respect to" in subdivision (b).